

**ASSEMBLY BILL**

**No. 1653**

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**Introduced by Assembly Member Haynes**

February 22, 2005

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An act to amend Section 12306.1 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1653, as introduced, Haynes. In-Home Supportive Services program: provider wage and benefit increases.

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization.

Existing law permits services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium.

Existing law provides that when any increase in provider wages or benefits is negotiated or agreed to by a public authority or nonprofit consortium, the county shall use county-only funds for the state and county share of any increase in the program, unless otherwise provided in the Budget Act or appropriated by statute.

Existing law establishes a formula with regard to provider wages or benefits increases negotiated or agreed to by a public authority or nonprofit consortium, and specifies the percentages required to be

paid by the state and counties, beginning with the 2000–01 fiscal year, with regard to the nonfederal share of any increases.

This bill would eliminate the formula for state participation in provider wage and benefit increases, and would instead provide generally that the state shall pay 65% of the nonfederal share of wages and benefits negotiated by a public authority or nonprofit consortium, and associated employment taxes, only up to the state minimum wage. These changes would become effective on October 1, 2005.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 12306.1 of the Welfare and Institutions  
2     Code is amended to read:  
3     12306.1. (a) When any increase in provider wages or benefits  
4     is negotiated or agreed to by a public authority or nonprofit  
5     consortium under Section 12301.6, then the county shall use  
6     county-only funds to fund both the county share and the state  
7     share, including employment taxes, of any increase in the cost of  
8     the program, unless otherwise provided for in the annual Budget  
9     Act or appropriated by statute. No increase in wages or benefits  
10    negotiated or agreed to pursuant to this section shall take effect  
11    unless and until, prior to its implementation, the department has  
12    obtained the approval of the State Department of Health Services  
13    for the increase pursuant to a determination that it is consistent  
14    with federal law and to ensure federal financial participation for  
15    the services under Title XIX of the federal Social Security Act,  
16    and unless and until all of the following conditions have been  
17    met:  
18    (1) Each county has provided the department with  
19    documentation of the approval of the county board of supervisors  
20    of the proposed public authority or nonprofit consortium rate,  
21    including wages and related expenditures. The documentation  
22    shall be received by the department before the department and  
23    the State Department of Health Services may approve the  
24    increase.

1 (2) Each county has met department guidelines and regulatory  
2 requirements as a condition of receiving state participation in the  
3 rate.

4 (b) Any rate approved pursuant to subdivision (a) shall take  
5 effect commencing on the first day of the month subsequent to  
6 the month in which final approval is received from the  
7 department. The department may grant approval on a conditional  
8 basis, subject to the availability of funding.

9 ~~(c) The Effective October 1, 2005, the state shall pay 65~~  
10 ~~percent, and each county shall pay 35 percent, of the nonfederal~~  
11 ~~share of wage and benefit increases wages and benefits~~  
12 ~~negotiated by a public authority or nonprofit consortium pursuant~~  
13 ~~to Section 12301.6 and associated employment taxes, only in~~  
14 ~~accordance with subdivisions (d) to (f), inclusive up to the state~~  
15 ~~minimum wage.~~

16 ~~(d) (1) The state shall participate as provided in subdivision~~  
17 ~~(e) in wages up to seven dollars and fifty cents (\$7.50) per hour~~  
18 ~~and individual health benefits up to sixty cents (\$0.60) per hour~~  
19 ~~for all public authority or nonprofit consortium providers. This~~  
20 ~~paragraph shall be operative for the 2000-01 fiscal year and each~~  
21 ~~year thereafter unless otherwise provided in paragraphs (2), (3),~~  
22 ~~(4), and (5), and without regard to when the wage and benefit~~  
23 ~~increase becomes effective.~~

24 ~~(2) The state shall participate as provided in subdivision (e) in~~  
25 ~~a total of wages and individual health benefits up to nine dollars~~  
26 ~~and ten cents (\$9.10) per hour, if wages have reached at least~~  
27 ~~seven dollars and fifty cents (\$7.50) per hour. Counties shall~~  
28 ~~determine, pursuant to the collective bargaining process provided~~  
29 ~~for in subdivision (e) of Section 12301.6, what portion of the~~  
30 ~~nine dollars and ten cents (\$9.10) per hour shall be used to fund~~  
31 ~~wage increases above seven dollars and fifty cents (\$7.50) per~~  
32 ~~hour or individual health benefit increases, or both. This~~  
33 ~~paragraph shall be operative for the 2001-02 fiscal year and each~~  
34 ~~fiscal year thereafter, unless otherwise provided in paragraphs~~  
35 ~~(3), (4), and (5).~~

36 ~~(3) The state shall participate as provided in subdivision (e) in~~  
37 ~~a total of wages and individual health benefits up to ten dollars~~  
38 ~~and ten cents (\$10.10) per hour, if wages have reached at least~~  
39 ~~seven dollars and fifty cents (\$7.50) per hour. Counties shall~~  
40 ~~determine, pursuant to the collective bargaining process provided~~

1 for in subdivision (e) of Section 12301.6, what portion of the ten  
2 dollars and ten cents (\$10.10) per hour shall be used to fund  
3 wage increases above seven dollars and fifty cents (\$7.50) per  
4 hour or individual health benefit increases, or both. This  
5 paragraph shall be operative commencing with the next state  
6 fiscal year for which the May Revision forecast of General Fund  
7 revenue, excluding transfers, exceeds by at least 5 percent, the  
8 most current estimate of revenue, excluding transfers, for the  
9 year in which paragraph (2) became operative.

10 (4) The state shall participate as provided in subdivision (e) in  
11 a total of wages and individual health benefits up to eleven  
12 dollars and ten cents (\$11.10) per hour, if wages have reached at  
13 least seven dollars and fifty cents (\$7.50) per hour. Counties shall  
14 determine, pursuant to the collective bargaining process provided  
15 for in subdivision (e) of Section 12301.6, what portion of the  
16 eleven dollars and ten cents (\$11.10) per hour shall be used to  
17 fund wage increases or individual health benefits, or both. This  
18 paragraph shall be operative commencing with the next state  
19 fiscal year for which the May Revision forecast of General Fund  
20 revenue, excluding transfers, exceeds by at least 5 percent, the  
21 most current estimate of revenues, excluding transfers, for the  
22 year in which paragraph (3) became operative.

23 (5) The state shall participate as provided in subdivision (e) in  
24 a total cost of wages and individual health benefits up to twelve  
25 dollars and ten cents (\$12.10) per hour, if wages have reached at  
26 least seven dollars and fifty cents (\$7.50) per hour. Counties shall  
27 determine, pursuant to the collective bargaining process provided  
28 for in subdivision (e) of Section 12301.6, what portion of the  
29 twelve dollars and ten cents (\$12.10) per hour shall be used to  
30 fund wage increases above seven dollars and fifty cents (\$7.50)  
31 per hour or individual health benefit increases, or both. This  
32 paragraph shall be operative commencing with the next state  
33 fiscal year for which the May Revision forecast of General Fund  
34 revenue, excluding transfers, exceeds by at least 5 percent, the  
35 most current estimate of revenues, excluding transfers, for the  
36 year in which paragraph (4) became operative.

37 (e) (1) On or before May 14 immediately prior to the fiscal  
38 year for which state participation is provided under paragraphs  
39 (2) to (5), inclusive, of subdivision (d), the Director of Finance  
40 shall certify to the Governor, the appropriate committees of the

1 Legislature, and the department that the condition for each  
2 subdivision to become operative has been met.

3 (2) For purposes of certifications under paragraph (1), the  
4 General Fund revenue forecast, excluding transfers, that is used  
5 for the relevant fiscal year shall be calculated in a manner that is  
6 consistent with the definition of General Fund revenues,  
7 excluding transfers, that was used by the Department of Finance  
8 in the 2000-01 Governor's Budget revenue forecast as reflected  
9 on Schedule 8 of the Governor's Budget.

10 (f) Any increase in overall state participation in wage and  
11 benefit increases under paragraphs (2) to (5), inclusive, of  
12 subdivision (d), shall be limited to a wage and benefit increase of  
13 one dollar (\$1) per hour with respect to any fiscal year. With  
14 respect to actual changes in specific wages and health benefits  
15 negotiated through the collective bargaining process, the state  
16 shall participate in the costs, as approved in subdivision (c), up to  
17 the maximum levels as provided under paragraphs (2) to (5),  
18 inclusive, of subdivision (d).

19 SEC. 2. This act is an urgency statute necessary for the  
20 immediate preservation of the public peace, health, or safety  
21 within the meaning of Article IV of the Constitution and shall go  
22 into immediate effect. The facts constituting the necessity are:

23 In order to effectuate statutory changes to address the state's  
24 severe budget shortfall at the earliest possible time, it is  
25 necessary that this act take effect immediately.